

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

CHAPTER 1
SCOPE OF CODE

500.100 Insurance code of 1956; short title.

Sec. 100. This act shall be known and may be cited as “the insurance code of 1956”.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Compiler's note: For transfer of the Department of Insurance and Office of the Commissioner on Insurance from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of authority, powers, duties, functions, and responsibilities of the insurance bureau and the commissioner of insurance to the commissioner of the office of financial and insurance services and the office of financial and insurance services, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

Popular name: Act 218

Popular name: Essential Insurance

500.102 “Commissioner” and “department” defined.

Sec. 102. (1) “Commissioner” as used in this act means the commissioner of the office of financial and insurance services.

(2) “Department” as used in this act means the office of financial and insurance services.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 2000, Act 252, Imd. Eff. June 29, 2000.

Popular name: Act 218

Popular name: Essential Insurance

500.103 “Revenue commissioner” defined.

Sec. 103. As used in this code, “revenue commissioner” means the state commissioner of revenue appointed under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

History: Add. 1990, Act 256, Imd. Eff. Oct. 15, 1990.

Popular name: Act 218

Popular name: Essential Insurance

500.106 Insurer; definition.

Sec. 106. “Insurer” as used in this code means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds organization, fraternal benefit society, and any other legal entity, engaged or attempting to engage in the business of making insurance or surety contracts.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Popular name: Essential Insurance

500.108 Authorized, unauthorized insurer; definitions.

Sec. 108. As used in this code:

(1) “Authorized” insurer means an insurer duly authorized, by a subsisting certificate of authority issued by the commissioner, to transact insurance in this state.

(2) “Unauthorized” insurer means an insurer not so authorized to transact insurance in this state.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Popular name: Essential Insurance

500.110 Domestic, foreign, alien; definitions.

Sec. 110. As used in this code:

(1) “Domestic” insurer means an insurer formed under the laws of this state.

(2) “Foreign” insurer means an insurer formed under the laws of the District of Columbia, or some state, commonwealth, territory, or possession of the United States of America other than the state of Michigan.

(3) “Alien” insurer means an insurer formed under the laws of a country other than the United States of America or any state, district, commonwealth, territory, or possession of the United States of America.

(4) Unless the context otherwise requires or unless the same subject is treated in this code by a provision

expressly applying to alien insurers, the term “foreign insurer” as used in a particular section of this code shall be deemed to include also alien insurers.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Popular name: Essential Insurance

500.114 Person; definition.

Sec. 114. “Person” as used in this code includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Popular name: Essential Insurance

500.115 Definitions.

Sec. 115. As used in this act unless the context clearly indicates otherwise:

(a) “Affiliate” or a person “affiliated” with a specific person means a person that directly, or indirectly through 1 or more intermediaries, controls, is controlled by, or is under common control with the person specified.

(b) “Control” including the terms “controlling”, “controlled by”, and “under common control with” mean the following:

(i) Except as otherwise provided in subparagraph (ii), the possession or the contingent or noncontingent right to acquire possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract including acquisition of assets or bulk reinsurance, other than a commercial contract for goods or nonmanagement services, by pledge of securities, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, by formal or informal arrangement, device, or understanding, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person or for a mutual insurer owns 10% or more of the insurer's surplus through surplus notes, guarantee fund certificates or other evidence of indebtedness issued by the insurer. This presumption may be rebutted by a showing made in the manner provided by section 1332 that control does not in fact exist. The commissioner may determine after furnishing to all persons in interest notice and an opportunity to be heard and making specific findings of fact to support the determination that control in fact exists notwithstanding the absence of a presumption to that effect.

(ii) “Control”, for the purpose of section 1243 and chapter 5 only, means 1 or more of the following:

(A) Ownership, control, or power to vote 25% or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through 1 or more other persons.

(B) Control in any manner over the election of a majority of the directors, trustees, or general partners or individuals exercising similar functions of the company.

(C) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

(c) “Insurance holding company system” means 2 or more affiliated persons, 1 or more of which is an insurer.

(d) “Securityholder” of a specified person means a person who owns any security of the person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(e) “Subsidiary” of a specified person means an affiliate controlled by that person directly or indirectly through 1 or more intermediaries.

(f) “Voting security” includes any security convertible into or evidencing a right to acquire a voting security.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 2001, Act 24, Imd. Eff. June 18, 2001.

Popular name: Act 218

Popular name: Essential Insurance

500.116 Additional definitions.

Sec. 116. As used in this act:

(a) “Abuse of discretion” means not in the reasonable exercise of discretion.

(b) “Hazardous to policyholders, creditors, and the public” means that an insurer, with respect to the

financial condition of its business, is not safe, reliable, and entitled to public confidence.

(c) "In the reasonable exercise of discretion" means that an order, decision, determination, finding, ruling, opinion, action, or inaction was based upon facts reasonably found to exist and was not inconsistent with generally acceptable standards and practices of those knowledgeable in the field in question.

(d) "Safe, reliable, and entitled to public confidence" means that an insurer meets all of the following:

(i) With respect to its financial standards and conduct and discharge of its obligations to policyholders and creditors, has complied and continues to comply with the specific requirements of this act and, if relevant, the insurance codes or acts of its state of domicile and other states in which it is authorized to conduct an insurance business.

(ii) Has made and continues to make reasonable financial provisions and apply sound insurance principles so as to provide reasonable margins of financial safety with respect to the insurance and other obligations it has assumed and continues to assume such that the insurer will be able to discharge those obligations under any reasonable conditions and contingencies taking into account without limitation reasonably anticipated contingencies, including those affecting changes in the projections of liabilities, fluctuations in value of assets, alterations in projections as to when obligations may become due, and expected and unexpected new claims with respect to obligations.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Popular name: Act 218

Popular name: Essential Insurance

500.118 Treatment of alien insurer as foreign insurer.

Sec. 118. If an alien insurer is domiciled in a country other than the United States that has an agreement with the United States whereby each agrees to treat insurers domiciled in the other country the same as insurers domiciled in its own country, the alien insurer may apply for a certificate of authority as a foreign insurer pursuant to section 424. If the certificate of authority as a foreign insurer is granted, the alien insurer shall be treated as a foreign insurer under this act, but only to the extent that the other country and its political subdivisions in which the alien insurer is domiciled actually extend like treatment to insurers domiciled in the United States.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Popular name: Act 218

Popular name: Essential Insurance

500.120 Insurance and surety transactions; compliance with code.

Sec. 120. No person shall transact an insurance or surety business in Michigan, or relative to a subject resident, located, or to be performed in Michigan, without complying with the applicable provisions of this code.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Popular name: Essential Insurance

500.121 Surety; rights; remedies; relief.

Sec. 121. (1) A person and a surety may agree to deposit any asset that the surety may be held responsible for into a financial institution that is authorized to transact business in this state in such manner as to prevent the withdrawal of the asset or any part of the asset except with the written consent of the surety or an order of the court made on such notice to the person and the surety as the court directs.

(2) A person acting in a fiduciary capacity who is required to obtain a bond may include the cost of obtaining the bond as part of the expense of acting as a fiduciary if allowed by the court to which the fiduciary is required to account and so long as the cost does not exceed 1% annually of the bond amount or an amount otherwise approved by the commissioner. The surety on a bond under this subsection may apply to the court for an order relieving the surety of liability for future acts of the fiduciary. Following notice and a hearing, the court may enter an order discharging the surety from liability arising out of acts or omissions occurring after the date of the order on such terms and conditions as the court considers necessary to protect the fiduciary estate and its beneficiaries.

(3) A person required to furnish a bond may use any surety that holds a certificate of authority issued under this chapter and so long as the amount of the bond is within the surety's risk limitation under section 640.

(4) Upon payment of the obligation secured by the bond, a surety is subrogated to the rights of the party to whom it made payment including any security or priority to which its subrogor was entitled.

(5) The corporate surety on a bond shall be released or discharged from its liability on the same terms and

conditions as are applicable to the release or discharge of individual sureties. A surety has all rights, remedies, and relief to which an individual guarantor or indemnitor would be entitled.

History: Add. 2001, Act 182, Imd. Eff. Dec. 21, 2001.

Popular name: Act 218

Popular name: Essential Insurance

500.122 Applicability of Michigan antitrust reform act.

Sec. 122. Transactions or conduct authorized, prohibited, or permitted under a regulatory scheme under this code shall not be subject to the Michigan antitrust reform act, Act No. 274 of the Public Acts of 1984, being sections 445.771 to 445.788 of the Michigan Compiled Laws. The fact that a transaction or conduct concerns the business of insurance shall not exempt it from the Michigan antitrust reform act unless the activity has been authorized, prohibited, or permitted under a regulatory scheme under this code.

History: Add. 1986, Act 173, Imd. Eff. July 7, 1986.

Popular name: Act 218

Popular name: Essential Insurance

500.124 Exceptions.

Sec. 124. This code shall not apply to:

(a) Domestic farmers' and other special risk mutual property insurers, as identified in chapter 68, except as stated in chapter 68.

(b) Fraternal benefit societies, except as stated in chapter 81a.

(c) A multiple employer welfare arrangement regulated under chapter 70, except as provided in chapter 70.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1986, Act 121, Imd. Eff. May 28, 1986;—Am. 1990, Act 1, Eff. Apr. 1, 1990.

Popular name: Act 218

Popular name: Essential Insurance

500.126 Waiver of customer liability agreement; definitions.

Sec. 126. (1) A waiver of customer liability agreement is not insurance or the business of insurance and is not subject to this act.

(2) As used in this section:

(a) "Service provider" means a public or private provider of electricity, natural gas, water, sewer, solid waste collection, or any other similar service, and any provider of communications services involving the transmission of data or any other information or signals utilizing any medium or method, including, but not limited to, cable or broadband service, IP-enabled voice service, cellular or mobile service, or any other similar service.

(b) "Waiver of customer liability agreement" means an optional agreement between a service provider and a customer of the service provider under which the service provider agrees, in return for a specified charge payable by the customer to the service provider, to waive all or a portion of the customer's liability to the service provider for incurred charges during a defined period in the event of any 1 or more of the following: the customer's call to active military service; involuntary unemployment; death; disability; hospitalization; marriage; divorce; evacuation; displacement due to natural disaster or other cause; qualification for family leave; or similar qualifying event or condition. A waiver of customer liability may be contained in the agreement under which the service provider provides services to the customer or in a separate agreement between the service provider and the customer.

History: Add. 2006, Act 432, Imd. Eff. Oct. 5, 2006.

Popular name: Act 218

Popular name: Essential Insurance

500.127 Guaranteed asset protection waiver; certificate of authority or license not required; issuance not construed as insurance; definitions.

Sec. 127. (1) A guaranteed asset protection waiver that is subject to the guaranteed asset protection waiver act is not insurance or the business of insurance and is not subject to this act.

(2) A person is not required to obtain a certificate of authority or license under this act to market, sell, or offer to sell guaranteed asset protection waivers in compliance with the guaranteed asset protection waiver act to borrowers.

(3) A guaranteed asset protection waiver issued before the effective date of the amendatory act that added this section shall not be construed as insurance.

(4) As used in this section, "borrower" and "guaranteed asset protection waiver" mean those terms as defined in section 3 of the guaranteed asset protection waiver act.

History: Add. 2009, Act 230, Imd. Eff. Jan. 8, 2010.

Popular name: Act 218

Popular name: Essential Insurance

500.128 Additional exceptions.

Sec. 128. This code shall not apply to:

(a) Nonprofit organizations of a purely philanthropic or social character, which may issue protection for the benefit of their members in amounts not to exceed \$150.00 death benefit or \$6.00 per week sickness or accident benefit upon compliance with provisions of the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws, and with the further and additional requirements that commissions or fees shall not be charged in such transactions, nor shall these organizations be formed or operated principally or primarily for the purpose of issuing such policies or contracts of insurance.

(b) Organizations legally operating under exceptions to the application of the insurance code in force and effect heretofore, provided these organizations shall notify the commissioner of their intention to so continue, and shall furnish with that notice satisfactory proof of their eligibility under said exceptions. The commissioner shall not be required to accept any notice filed later than December 31, 1945.

(c) Those fraternal and other societies, orders, associations, and organizations exempted pursuant to section 8199, exempted fraternal societies and other organizations, but subject to the provisions of section 8199.

(d) Voluntary associations of employees which provide death, accident, or sickness benefits to persons employed by the same employer.

(e) The Mennonite aid association of Indiana and Michigan.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1986, Act 318, Eff. June 1, 1987;—Am. 1990, Act 1, Eff. Apr. 1, 1990.

Popular name: Act 218

Popular name: Essential Insurance

500.132 Saving clause; incumbent officers.

Sec. 132. Continuation by this act of any state department or any office existing under any act repealed herein preserves such department and preserves the tenure of the individual holding such office at the effective date of this act.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Popular name: Essential Insurance

500.134 Validity of certificate of authority or license in force prior to January 1, 1957; validity of plan of operation and premium or assessment; association or facility not state agency and money thereof not state money; records exempt from disclosure; premium or assessment not burden under MCL 500.476a; "association or facility" defined.

Sec. 134. (1) Every certificate of authority or license in force immediately prior to January 1, 1957 and existing under any act repealed by this act is valid until its original expiration date, unless earlier terminated in accordance with this act.

(2) Any plan of operation adopted by an association or facility, and any premium or assessment levied against an insurer member of that association or facility, is hereby validated retroactively to the date of its original adoption or levy and shall continue in force and effect according to the terms of the plan of operation, premium, or assessment until otherwise changed by the commissioner or the board of directors of the association or facility pursuant to this act.

(3) An association or facility or the board of directors of the association or facility is not a state agency and the money of an association or facility is not state money.

(4) A record of an association or facility shall be exempted from disclosure pursuant to section 13 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws.

(5) Any premium or assessment levied by an association or facility, or any premium or assessment of a similar association or facility formed under a law in force outside this state, is not a burden or special burden for purposes of a calculation under section 476a, and any premium or assessment paid to an association or facility shall not be included in determining the aggregate amount a foreign insurer pays to the commissioner

under section 476a.

(6) As used in this section, "association or facility" means an association of insurers created under this act and any other association or facility formed under this act as a nonprofit organization of insurer members, including, but not limited to, the following:

- (a) The Michigan worker's compensation placement facility created under chapter 23.
- (b) The Michigan basic property insurance association created under section 29.
- (c) The catastrophic claims association created under chapter 31.
- (d) The Michigan automobile insurance placement facility created under chapter 33.
- (e) The Michigan life and health insurance guaranty association created under chapter 77.
- (f) The property and casualty guaranty association created under chapter 79.
- (g) The assigned claims facility created under section 3171.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1988, Act 349, Imd. Eff. Nov. 15, 1988;—Am. 1990, Act 256, Imd. Eff. Oct. 15, 1990.

Compiler's note: Section 2 of Act 349 of 1988 provides:

The amendment to section 134 of Act No. 218 of the Public Acts of 1956, being section 500.134 of the Michigan Compiled Laws, pursuant to this amendatory act is intended to codify, approve, and validate the actions and long-standing practices taken by the associations and facilities mentioned in this amendatory act retroactively to the time of their original creation. It is the intent of this amendatory act to rectify the misconstruction of the applicability of the administrative procedures act of 1969 by the court of appeals in *League General Insurance Company v Catastrophic Claims Association*, Case No. 93744, December 21, 1987, with respect to the imposition of rule promulgation requirements on the catastrophic claims association as a state agency, and to further assure that the associations and facilities mentioned in this amendatory act, and their respective boards of directors, shall not hereafter be treated as a state agency or public body."

Popular name: Act 218

Popular name: Essential Insurance

500.140 Saving clause; existence of domestic insurer continued.

Sec. 140. Any insurer heretofore formed or incorporated under any insurance law of this state, whose act of incorporation or act under which formed was repealed by Act No. 256 of the Public Acts of 1917 or is repealed by this act, shall continue to have a corporate existence (if a corporation) or existence (if other than a corporation), and shall have all the rights, privileges, immunities and limitations, obtained under such acts of incorporation or formation, as evidenced by their articles of incorporation, bylaws, power of attorney or constituent agreements made pursuant to such acts, as existing at the time this act takes effect; except, that all amendments to such articles of incorporation or powers of attorney or agreements shall be made hereafter in compliance with the provisions of this act, and all such insurers shall be otherwise governed by the provisions of this act. All reincorporations of such incorporated insurers, for the purpose of extending their corporate existence or for any other purpose shall be made only in compliance with this act, and any incorporated insurer heretofore incorporated under any insurance law of this state may reincorporate under this act.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Popular name: Essential Insurance

500.142 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992

Compiler's note: The repealed section pertained to incorporation requirements for insurance companies.

Popular name: Act 218

Popular name: Essential Insurance

500.150 Violation of act; hearing; order of commissioner; penalties; court order.

Sec. 150. (1) Any person who violates any provision of this act for which a specific penalty is not provided under any other provision of this act or of other laws applicable to the violation shall be afforded an opportunity for a hearing before the commissioner pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. If the commissioner finds that a violation has occurred, the commissioner shall reduce the findings and decision to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the commissioner may order any of the following:

(a) Payment of a civil fine of not more than \$500.00 for each violation. However, if the person knew or reasonably should have known that he or she was in violation of this act, the commissioner may order the payment of a civil fine of not more than \$2,500.00 for each violation. With respect to filings made under chapters 21, 22, 23, 24, and 26, "violation" means a filing not in compliance with the provisions of those

chapters and does not include an action with respect to an individual policy based upon a noncomplying filing. An order of the commissioner under this subdivision shall not require the payment of civil fines exceeding \$25,000.00. A fine collected under this subdivision shall be turned over to the state treasurer and credited to the general fund.

(b) The suspension, limitation, or revocation of the person's license or certificate of authority.

(2) After notice and opportunity for hearing, the commissioner may by order reopen and alter, modify, or set aside, in whole or in part, an order issued under this section if, in the commissioner's opinion, conditions of fact or law have changed to require that action or the public interest requires that action.

(3) If a person knowingly violates a cease and desist order under this section and has been given notice and an opportunity for a hearing held pursuant to Act No. 306 of the Public Acts of 1969, the commissioner may order a civil fine of \$10,000.00 for each violation, or a suspension, limitation, or revocation of a person's license, or both. A fine collected under this subsection shall be turned over to the state treasurer and credited to the general fund.

(4) The commissioner may apply to the Ingham county circuit court for an order of the court enjoining a violation of this act.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1984, Act 7, Imd. Eff. Feb. 1, 1984;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Popular name: Act 218

Popular name: Essential Insurance